

# **ATTACHMENT 1**

August 28, 2017

VIA CM/ECF Filing

Honorable Roy S. Payne  
United States Magistrate Judge  
Sam B. Hall, Jr. Federal Building and  
United States Courthouse  
100 East Houston Street  
Marshall, TX 75670

Re: Huawei Techs Co. Ltd. v. T-Mobile US, Inc., Nos. 2:16-cv-00052, -00055, -00056, -00057

Dear Judge Payne:

Defendants T-Mobile US, Inc. and T-Mobile USA, Inc. (“T-Mobile”) and Intervenor Nokia Solutions and Networks US LLC and Nokia Solutions and Networks Oy and Telefonaktiebolaget LM Ericsson and Ericsson Inc. (collectively, “Intervenors”) file this letter in response to Huawei’s August 24, 2017 letter to the Court regarding trial scheduling in these four cases. (Dkt. 333-1, -52 case.) Since Huawei filed its letter, the Court *sua sponte* issued an order confirming jury selection for October 2, 2017, and the presentation of evidence to begin on October 10, 2017 for Case No. 2:16-cv-52. (-52 Case Doc No. 336). In the same Order, the Court reset jury selection for Case Nos. 2:16-cv-55, 2:16-cv-56, and 2:16-cv-57 for November 6, 2017.

During the August 22 hearing before Your Honor, the parties were informed that the second trial in November would be limited to eight or nine hours per side. Based on that information, T-Mobile and the Intervenor explained that the -55 case cannot be practically and appropriately tried in 8-9 hours per side, but that it could be sufficient for the -56 case given that the case only involves one patent. Nothing has changed.

In arguing that the -55 case “is in many respects more like a two patent case than a four patent case,” Huawei overlooks that the -55 case involves four sets of asserted claims, and Huawei has asserted distinct infringement theories for each set of claims. Additionally, Huawei overlooks that T-Mobile’s counterclaims also need to be tried. Furthermore, 8-9 hours per side would be impractical even for only two patents.

For these reasons, T-Mobile and the Intervenor respectfully request that the Court proceed with an October trial of the -52 as scheduled. If the Court has room for a second trial in November, T-Mobile and the intervenors respectfully submit that only the 056 case can be tried fairly in the available window. Finally, T-Mobile and the Intervenor respectfully renew their request that before scheduling a second trial, the Court order the parties to mediation following a jury verdict in the -52 case.

Respectfully submitted,

By: /s/ Mark N. Reiter

Josh A. Krevitt (New York Bar No. 2568228)  
**GIBSON, DUNN & CRUTCHER LLP**  
200 Park Avenue, 47th Floor  
New York, New York 10166  
Tel: (212) 351-4000  
Fax: (212) 351-4035

Mark N. Reiter (Texas Bar No. 16759900)  
**GIBSON, DUNN & CRUTCHER LLP**  
2100 McKinney Avenue, Suite 1100  
Dallas, Texas 75201  
Tel: (214) 698-3100  
Fax: (214) 571-2900

Ernest Y. Hsin (California Bar No. 201668)  
**GIBSON, DUNN & CRUTCHER LLP**  
555 Mission Street  
San Francisco, CA 94105-0921  
Tel: (415) 393-8224  
Fax: (415) 374-8436

Stuart M. Rosenberg (California Bar No. 239926)  
**GIBSON, DUNN & CRUTCHER LLP**  
1881 Page Mill Road  
Palo Alto, CA 94304-1211  
Tel: (650) 849-5389  
Fax: (650) 849-5089

Mark D. Selwyn  
(California Bar No. 244180)  
Kathryn D. Zalewski (California Bar No. 263119)  
**WILMER CUTLER PICKERING  
HALE AND DORR LLP**  
950 Page Mill Road  
Palo Alto, California 94304  
Tel: (650) 858-6000

Joseph J. Mueller  
(Massachusetts Bar No. 647567)  
Cynthia Vreeland  
(Texas Bar No. 20625150)

Massachusetts Bar No. 635143)  
**WILMER CUTLER PICKERING  
HALE AND DORR LLP**  
60 State Street  
Boston, Massachusetts 02109  
Tel: (617) 526-6000

Michael E. Jones (Texas Bar No. 10929400)  
Email: mikejones@potterminton.com  
E. Glenn Thames, Jr. (Texas Bar No. 00785097)  
Email: glennthames@potterminton.com  
**POTTER MINTON, PC**  
110 North College Ave., Suite 500  
Tyler, Texas 75702  
Tel: (903) 597-8311  
Fax: (903) 593-0846

*Counsel for Defendants T-Mobile US,  
Inc. and T-Mobile USA, Inc.*

/s/ John D. Haynes  
John D. Haynes (Georgia Bar No. 340599)  
Patrick J. Flinn (Georgia Bar No. 264540)  
Michael C. Deane (GA Bar No. 498195)  
**ALSTON & BIRD LLP**  
1201 W. Peachtree St.  
Atlanta, Georgia 30309-3424  
Tel: (404) 881-7000  
Fax: (404) 881-7777  
Email: John.Haynes@alston.com  
Email: Patrick.Flinn@alston.com  
Email: Michael.Deane@alston.com

Michael J. Newton (TX Bar No. 24003844)  
**ALSTON & BIRD LLP**  
2800 N. Harwood St., Suite 1800  
Dallas, Texas 75201  
Telephone: (214) 922-3400  
Facsimile: (214) 922-3899  
Email: Mike.Newton@alston.com  
Email: Derek.Neilson@alston.com

M. Scott Stevens (North Carolina Bar No. 37828)  
Ross R. Barton (North Carolina Bar No. 37179)

The Honorable Roy Payne

August 28, 2017

Page 4

**ALSTON & BIRD LLP**

Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Telephone: (704) 444-1000  
Facsimile: (704) 444-1111  
Email: Scott.Stevens@alston.com  
Email: Ross.Barton@alston.com

Deron R. Dacus (Texas State Bar No. 790553)

**THE DACUS FIRM, P.C.**

821 ESE Loop 323, Suite  
430 Tyler, TX 75701  
Telephone: (903) 705-1117  
Facsimile: (903) 581-2543

*Counsel for Intervenors Nokia Solutions  
and Networks US LLC and Nokia Solutions  
and Networks Oy*

/s/ Phillip B. Philbin

Phillip B. Philbin  
LEAD ATTORNEY  
State Bar No. 15909020  
Jamie H. McDole  
State Bar No. 24082049  
Charles M. Jones II  
State Bar No. 24054941  
Michael D. Karson  
State Bar No. 24090198  
Matthew P. Chiarizio  
State Bar No. 24087294  
Tiffany M. Cooke  
State Bar No. 24087340

**HAYNES AND BOONE, LLP**

2323 Victory Avenue  
Suite 700  
Dallas, Texas 75219  
Tel.: (214) 651-5000  
Fax: (214) 651-5940  
Email: phillip.philbin@haynesboone.com  
jamie.mcdole@haynesboone.com  
charlie.jones@haynesboone.com  
michael.karson@haynesboone.com

The Honorable Roy Payne

August 28, 2017

Page 5

matthew.chiarizio@haynesboone.com  
tiffany.cooke@haynesboone.com

Jason T. Lao  
California State Bar No. 288161  
**HAYNES AND BOONE, LLP**  
600 Anton Boulevard, Suite 700  
Costa Mesa, California 92626  
Tel.: (949) 202-3051  
Fax: (949) 202-3151  
Email: jason.lao@haynesboone.com

*Counsel for Intervenors  
Telefonaktiebolaget LM Ericsson and  
Ericsson Inc.*